

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
BAKERSFIELD FIELD OFFICE**

DECISION RECORD

**May 22, 2013 Oil and Gas Competitive Lease Sale
Environmental Assessment #DOI-BLM-CA-C060-2012-0247-EA**

Introduction

The Bureau of Land Management's (BLM) purpose for offering parcels and subsequent issuance of leases in the May 2013 lease sale is to provide, as expeditiously as possible, areas for the potential exploration and development of additional oil and gas resources to help meet the nation's current and expanding need for energy sources. California is a major source of oil production in the continental United States. The offering for sale and subsequent issuance of oil and gas leases is needed to meet the requirements of the Mineral Leasing Act (MLA) of 1920, as amended [30 U.S.C. 181 *et seq.*] and the Federal Land Policy and Management Act of 1976 (FLPMA), and the mineral management objectives in the Caliente Resource Management Plan (RMP) and the 1995 Hollister Resource Management Plan Amendment for Oil and Gas (O/G RMP Amendment). Oil and gas leasing provides oil and gas companies the opportunity to expand existing areas of production and to locate previously undiscovered oil and gas resources to help meet the public's energy demand.

In accordance with Section 5102(21)(A) of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, BLM has the responsibility to conduct quarterly oil and gas lease auctions whenever eligible lands are available for leasing. The Bakersfield Field Office is complying with this Act by offering lands based on expressions of interest submitted by the public.

In compliance with the National Environmental Policy Act (NEPA) and other relevant federal and state laws and regulations, the BLM Bakersfield Field Office prepared an Environmental Assessment (EA) in 2012 to disclose the potential effects of offering for sale and subsequent issuing of leases for 1,278.06 acres of federal mineral estate in Kern and Fresno counties, California.

Decision

It is my decision to offer for sale and subsequent lease issuance (should a successful bid be received by the BLM) seven (7) parcels encompassing 1,278.06 acres of Federal fluid mineral estate administered by the Bakersfield Field Office in Kern and Fresno Counties, California, as described in Alternative 1 in the EA, DOI-BLM-CA-C060-2012-0247. The remaining 32 parcels (10,533.42 acres) nominated and reviewed by the BLM will be deferred from offering for sale until additional environmental analysis can be completed; this environmental analysis will be completed upon the issuance of the Record of Decision for the Bakersfield Resource Management Plan at which time these deferred parcels will be re-evaluated for lease issuance.

The authority for this decision is contained in 43 Code of Federal Regulations 3100. No monitoring would be required in the offering of the lease parcels for sale. Should the parcels be developed, monitoring may be required and would be subject to future NEPA analysis and documentation.

All parcels are subject to lease stipulations for Threatened and Endangered and Sensitive Species. Individual parcels are subject to parcel-specific stipulations for paleontological or cultural resources. Refer to appendices B and C in the EA for the actual stipulations and lease notices applied to a given parcel.

Alternatives Considered but not Selected: Three other alternatives were considered. Two of these alternatives were considered but not analyzed in detail: Exchange or Sale of the proposed parcels in lieu of leasing the mineral estate, was not analyzed because the process of either is very lengthy and time consuming; therefore, it does not meet the purpose and need of this project.

The offering of the 10, 213.42 acres in Ventura County within the range of the California condor was dropped from detailed analysis because it does not meet the purpose and need of expeditiously providing areas for the potential exploration and development of additional oil and gas resources to help meet the nation's current and expanding need for energy sources. These parcels will be deferred from leasing until the Bakersfield RMP has been approved and a Biological Opinion for that RMP has been issued.

Alternative 2: No Action – None of the proposed parcels would be offered for lease at the May 22, 2013 Competitive Oil and Gas Lease Sale. Surface management would remain the same and ongoing oil and gas development would continue on surrounding federal, private, and state leases.

Decision Rationale

The decision to approve the proposed action is based upon the following: (1) consistency with the resource management plans; (2) national policy; (3) agency statutory requirements; (4) relevant resource and economic issues; (5) application of measures to avoid or minimize environmental impacts; and (6) meeting the purpose and need for the project. Alternative 1 was chosen as being the most environmentally sound alternative that meets the purpose and need. Additionally, it would defer offering parcels from the May 2013 Oil and Gas Lease Sale in California condor and San Joaquin adobe sunburst range while the RMP revision is being completed for the Bakersfield Field Office.

1. This decision is in conformance with the Caliente RMP and the Hollister O/G RMP Amendment as these lands were previously identified as being available for lease.
2. It is the policy of the BLM as derived from various laws, including the MLA and the FLPMA, to make mineral resources available for disposal and to encourage development of mineral resources to meet national, regional, and local needs.
3. The decision is consistent with all federal, state, and county authorizing actions required for implementation of the Proposed Action.
4. Standard terms and conditions as well as special stipulations would apply. Lease stipulations (as required by 43 CFR 3101.1-3) were added to each parcel as identified by the Caliente RMP and Bakersfield FO to address site specific concerns or new information not identified in the land use planning process.
5. Alternative 1 provides areas for the potential exploration and development of additional oil and gas resources to help meet the nation's current and expanding need for energy sources.
6. Alternative 1 meets the purpose and needs identified in the EA.

Consultation and Coordination

BLM completed formal consultation with the U.S. Fish and Wildlife Service (USFWS) for the Caliente RMP and the Hollister O/G RMP Amendment; the USFWS issued their no jeopardy Biological Opinion (1-1-97-F-64) on March 31, 1997 and (1-1-94-F-47) on October 24, 1994. The proposed action is in accordance with provisions of the Caliente RMP, Hollister O/G RMP Amendment and their associated Biological Opinions. Although the parcels proposed for leasing include habitat for the San Joaquin Valley Federally listed species, no additional consultation was required with USFWS because these parcels are within the "reasonably foreseeable development" scenario analyzed in the Caliente RMP (1997) and, therefore, the potential impacts of this action were analyzed in that Environmental Impact Statement (EIS) and its associated Biological Opinion by USFWS.

On October 3, 2012, letters requesting information and inviting the initiation of formal government-to-government consultation regarding sites of traditional cultural or religious value were sent to the Tribal Chairperson and cultural resources program representative for three federally recognized Native Americans Tribes known to have ancestral ties to the lease parcel areas. While no formal government-to-government consultation was initiated, representatives from two of the tribes responded indicating there were no concerns regarding impacts to places of known cultural or religious importance to them and were satisfied with the process for identifying and protecting cultural sites during the oil and gas leasing stage and future development process.

Public Involvement

The EA was made available for 30-day public review and comment on December 3, 2012. The public was notified of the availability of the environmental assessment via letters, press release, and notices on BLM web pages. As required by BLM leasing policy, where parcels are split estate, a notification letter soliciting EA review and comments were sent to the appropriate surface owner as identified in the Expression of Interest (EOI).

BLM received one comment letter from Center for Biological Diversity (CBD) jointly with the Sierra Club in response to this EA within the legal 30-day timeframe. The comments included concerns over the level of impacts to air quality and climate change; water resources; special status species such as blunt-nosed leopard lizard, San Joaquin kit fox, and California condor; and social impacts to communities based on the level of development predicted in the Reasonably Foreseeable Development scenario. These comments and BLM's responses follow:

- **Comment:** BLM has arbitrarily limited the amount of oil and gas activity that it assumed would result from the lease sale and does not sufficiently consider that "a shale oil boom will contribute to more growth" (exceeding 4 wells) and fails to sufficiently analyze site-specific impacts from such development specifically those resulting from hydraulic fracturing operations.

Response: The reasonably foreseeable development scenario (RFD) is an established BLM method that projects the amount of development reasonably expected to occur based on a reasonable, technical, and scientific estimate of anticipated oil and gas activity utilizing the best available information and data at the time of the study; it is not meant to be the worst-case scenario analysis. The development of the RFD is described in the EA on pages 26-31 and specific activity on recently leased parcels is included in Appendix D. Applying the phased approach for NEPA compliance, as well as the limited ability to conduct site-specific impact analysis, is discussed in numerous places in the EA (pages 2, 4, 5, 6, 26, 30, 33, 39, 40, 42, 55, and 56). The inherent uncertainty in the multi-stage lease process is acknowledged on page 6 of the EA reminding the public that BLM cannot predict whether or not any of the parcels will actually be sold, developed, or what the development level would be. Therefore, the site-specific analysis is more appropriately deferred to when development is proposed.

- **Comment:** The potential risks to water resources from hydraulic fracturing operations are not adequately addressed in the EA.

Response: As described in the EA (page 40) the act of offering, selling, and issuing federal oil and gas leases does not directly produce impacts to water quality. The EA, however, provides examples of oil and gas activities that could degrade ground water and notes these effects would be limited to the localized area. Additional acknowledgement of the uncertainty of specific parcel development in the future has been added as well as the reiteration that any development would be subject to further site-specific review, analysis, and documentation under the NEPA.

- **Comment:** Air pollution impacts are not adequately analyzed because the potential effects of emissions are not described. In addition, the EA does not consider the potential for hydrogen sulfide emissions.

Response: The EA (page 32-34) estimates potential emissions of criteria pollutants that may result from development subsequent to leasing based on the RFD scenario. The uncertainty of exact development is acknowledged and the hypothetical nature of any modeling at this time is noted (EA page 33). Estimates of criteria pollutant emissions and the most likely causal action are presented with the conclusion that emissions released as a result of potential production from the proposed lease parcels would have a negligible effect. The analysis of impacts to air quality is focused on criteria pollutants of concern (Table AQ-2, EA page 11). Although hydrogen sulfide is not considered a pollutant of concern, Onshore Oil and Gas Order No. 6 contains extensive requirements addressing risk factors associated with emissions; text has been added to the EA reflecting these requirements (EA page 11).

- **Comment:** The potential impacts the lease sale would have on the climate are not adequately analyzed because the potential resulting emissions are not estimated, nor are all the potential sources of greenhouse gasses considered.

Response: The EA presents a qualitative description of pollutants associated with oil and gas development and production and how, based on the RFD, the lease sale potentially contributes to climate change through the release of greenhouse gas (GHG) emissions. The analysis concludes, "... direct GHG emissions from development subsequent to leasing would be undetectable on a nationwide basis and would be expected to have a negligible influence on global climate change" (EA pages 36-38).

- **Comment:** The potential impacts the lease sale would have on the California condor are not adequately analyzed because of the BLM's belief that the parcels are outside of condor range; however, a substantial number of condors reside in close proximity to the parcels making it reasonably foreseeable that the lease sale could affect condors or the environment on which they depend.

Response: During the review of the nominated parcels those that fell within essential and critical California condor habitat were deferred from leasing until the completion of the Bakersfield RMP. In addition, the BLM utilized USFWS data to confirm that there are no records of condor use on the remaining parcels (EA page 7); therefore, the lease sale will have no impact to California condor or their habitat.

- **Comment:** The potential impacts the lease sale would have on the San Joaquin kit fox are not adequately analyzed because the BLM did not consider modeling results suggesting species extinction within the San Joaquin Valley by 2022 (McDonald-Madden 2008) or the continued threat to the species by oil and gas development due to loss or fragmentation of habitat (USFWS 2010).

Response: The referenced McDonald-Madden paper is entirely theoretical because the paper's main hypothesis centers on a statistical model which may (or may not) be used to predict future kit fox populations by correction to future budgets of resource management agencies. The paper actually disregards the site-specific survey data collection and analysis that is currently underway to preserve, improve, and acquire additional habitat to ensure species recovery. The EA describes two studies in detail and the conclusion that the lease sale will result in little impact to individual kit foxes and no effects at the population level are based in part on the results of these studies (EA pages 47-49).

- **Comment:** The potential impacts the lease sale would have on the blunt-nosed leopard lizard are not adequately analyzed as the EA merely lists potential harms to the species.

Response: The EA describes the potential for blunt-nosed leopard lizard to occur on the lease parcels, describes potential impacts from oil and gas development, and the measures generally taken to avoid adverse impacts to these species including those prescribed by the USFWS in the Oil and Gas Programmatic Biological Opinion. Additional clarification was added to the EA regarding the level of effects based on the limited amount of habitat disturbance.

- **Comment:** The EA fails to consider sufficiently impacts to other special status species that could occur on the parcels.

Response: The EA describes the potential for special status species to occur on the lease parcels, describes potential impacts from oil and gas development, and the measures generally taken to avoid adverse impacts to these species including those prescribed by the USFWS in the Oil and Gas Programmatic Biological Opinion. The analysis of potential impacts is based on the RFD; the EA (page 42) notes that “[a]lthough the effects disclosed below can result from oil and gas development, the likelihood and extent of such potential impacts from leasing the subject parcels would be reduced because of BLM’s site specific NEPA and ESA review”.

- **Comment:** The EA fails to consider sufficiently the potential for the lease sale to induce seismic activity especially in response to fluid injection during hydraulic fracturing.

Response: A link between significant increased seismic risk and hydraulic fracturing has not been demonstrated in scientific studies either in California or elsewhere. According to the National Research Council's Committee on Induced Seismicity Potential in Energy Technologies, there have been no historical felt events caused by hydraulic fracturing for shale gas recovery in the United States. In addition, hydraulic fracturing carried on in California is vastly different from hydraulic fracturing carried on in other parts of the country or world with respect to subsurface geology, regional geologic structures, formation depth and extent, fracturing vertical wells versus horizontal wells, resource targeted, and quantities of water employed, among others.

As stated in the EA, at the leasing stage it is not yet known which, if any, of the parcels will actually be developed, which wells, if any, would be hydraulically fractured, and if wells are hydraulically fractured, what the specific parameters of the hydraulic fracturing job would be. At this stage, no meaningful analysis can be conducted that would affect the decision at hand - whether to lease or not, and what stipulations would be applied. Therefore, the site-specific analysis is more appropriately deferred to when development is proposed.

- **Comment:** The EA fails to analyze the potential for numerous negative social impacts that are associated with oil and gas development particularly the way that the “boom and bust” cycle harms a community.

Response: The central and southern portions of the San Joaquin Valley have a long-standing history of oil and gas production. The parcels considered in the EA are located near existing oil fields and are six to 12 miles from the nearest community. The communities near these parcels have developed with the growth of the energy industry. Therefore, any social impacts from this growth have already been felt.

Plan Consistency

The proposed action and alternatives have been reviewed and found to be in conformance with the following BLM RMPs and the associated decisions: the Caliente RMP and Final EIS (1996) and the RMP/Record of Decision (ROD) approved in May 1997; the Hollister RMP and Final EIS (May 1984) and the RMP/ROD approved in August 1984 as amended by the September 1993 Hollister RMP Amendment for Oil and Gas approved April 1995.

Pursuant to 40 CFR 1508.28 and 1502.21, this EA tiers to and incorporates by reference the information and analysis contained in the Caliente and Hollister, as amended FEISs, RMP, and RODs.

Administrative Remedies

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in strict compliance with the regulations in 43 CFR Part 4. Notices of appeal must be filed in this office within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and the Board within 30 days after the notice of appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor, U.S. Department of the Interior Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Room E-2753 Sacramento, CA 95825-1890.

The effective date of this decision (and the date initiating the appeal period) will be the date this notice of decision is posted on BLM's internet website.

/s/ James G. Kenna
California State Director

2/20/2013
Date